

MONTANA LEGISLATIVE HISTORY

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Chapter 346 1995

Bill H _____ S 312

Original bill & history ✓c

H. Committee on Fish & Game

Hearing Date(s) _____ c

3/7 ✓c

_____ c

_____ c

Date Out 3/14 ✓c

S. Committee on Fish & Game

Hearing Date(s) _____ c

2/16 ✓c

_____ c

_____ c

Tabled
2/17 ✓

Did this bill originate in an interim committee? _____ Yes ✓ No

Committee _____

Report _____

SB 312 INTRODUCED BY MESAROS, ET AL.

REQUIRE DEPARTMENT OF LIVESTOCK TO TAKE CERTAIN ACTIONS WITH
REGARD TO WILD BUFFALO OR BISON ENTERING THE STATE OF
MONTANA

2/06	INTRODUCED		
2/06	FIRST READING		
2/06	REFERRED TO FISH & GAME		
2/07	FISCAL NOTE REQUESTED		
2/13	FISCAL NOTE RECEIVED		
2/15	FISCAL NOTE PRINTED		
2/16	HEARING		
2/16	FISCAL NOTE PRINTED AS AMENDED		
2/17	TABLED IN COMMITTEE		
2/17	TAKEN FROM COMMITTEE AND		
	PLACED ON 2ND READING	39	10
2/18	2ND READING PASSED AS AMENDED	43	4
2/20	3RD READING PASSED	43	7
	TRANSMITTED TO HOUSE		
2/20	FIRST READING		
2/20	REFERRED TO FISH & GAME		
3/07	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/24	2ND READING CONCURRED	80	20
3/25	3RD READING CONCURRED	77	21
	RETURNED TO SENATE WITH AMENDMENTS		
3/30	2ND READING AMENDMENTS CONCURRED	50	0
3/31	3RD READING AMENDMENTS CONCURRED	49	0
4/04	SIGNED BY PRESIDENT		
4/05	SIGNED BY SPEAKER		
4/06	TRANSMITTED TO GOVERNOR		
4/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 346		
	EFFECTIVE DATE: 04/10/95		

SB 313 INTRODUCED BY MESAROS, ET AL.

ENSURE EQUAL ACCESS FOR PURCHASERS TO DRUG MANUFACTURERS'
DISCOUNTS

2/06	INTRODUCED		
2/06	FIRST READING		
2/06	REFERRED TO BUSINESS & INDUSTRY		
2/09	FISCAL NOTE REQUESTED		
2/14	HEARING		
2/15	FISCAL NOTE RECEIVED		
2/15	FISCAL NOTE PRINTED		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	REVISED FISCAL NOTE RECEIVED, AS AMENDED		
	BY BUSINESS & INDUSTRY COMMITTEE		
2/20	REVISED FISCAL NOTE PRINTED		
2/20	REFERRED TO BUSINESS & INDUSTRY		
3/03	REVISED FISCAL NOTE RECEIVED		
3/03	COMMITTEE REPORT—BILL PASSED		
3/06	REVISED FISCAL NOTE PRINTED		
3/07	2ND READING PASSED	41	8
3/08	3RD READING PASSED	43	5
	TRANSMITTED TO HOUSE		
3/09	FIRST READING		
3/09	REFERRED TO BUSINESS & LABOR		
3/20	HEARING		

SENATE BILL NO. 312

INTRODUCED BY

M. Anderson *Sen. Good* *Harmon* *Kittel*
Cole *Taylor* *Eric* *Rose* *Dudley* *M. Harrison* *Trent* *Holden* *Beck*
Forrest *Go. Field*

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF LIVESTOCK TO TAKE CERTAIN ACTIONS WITH REGARD TO WILD BUFFALO OR BISON ENTERING THE STATE OF MONTANA; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ASSIST THE DEPARTMENT OF LIVESTOCK IN MANAGING WILD BUFFALO OR BISON AS A SPECIES REQUIRING DISEASE CONTROL; REPEALING SECTION 87-1-215, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Management of wild buffalo or bison for disease control. (1)

Whenever a publicly owned wild buffalo or bison from a herd that is infected with a dangerous disease enters the state of Montana on public or private land and the disease may spread to persons or livestock, the department of livestock may take one of the following actions:

(a) The live wild buffalo or bison may be physically removed by the safest and most expeditious means from within the state boundaries, including but not limited to hazing and aversion tactics or capture, transportation, or delivery to a department-approved slaughterhouse.

(b) The live wild buffalo or bison may be destroyed by the use of firearms. If a firearm cannot be used for reasons of public safety or regard for public or private property, the animal may be relocated to a place that is free from public or private hazards and destroyed by firearms or by a humane means of euthanasia.

(2) Whenever the department is responsible for the death of a wild buffalo or bison, either purposefully or unintentionally, the carcass of the animal must be disposed of by the most economical means, including but not limited to burying, incineration, rendering, or field dressing for donation or delivery to a department-approved slaughterhouse or slaughter destination.

(3) In disposing of the carcass, the department:

(a) as first priority, may donate a wild buffalo or bison carcass to an Indian tribal organization; or

(b) may sell a wild buffalo or bison carcass to help defray expenses of the department. If the carcass is sold in this manner, the department shall deposit any revenue derived from the sale of the wild

1 buffalo or bison carcass to the state special revenue fund to the credit of the department.

2
3 **NEW SECTION.** **Section 2. Wild buffalo or bison as species requiring disease control.** (1) The
4 legislature finds that the management through hunting of wild buffalo or bison is not appropriate but that
5 significant potential exists for the spread of contagious disease to persons or livestock in Montana and for
6 damage to persons and property by wild buffalo or bison. It is the purpose of this section to designate wild
7 buffalo or bison, which have not been reduced to captivity, as a species requiring disease control and to
8 set out specific duties for the department of fish, wildlife, and parks for management of the species.

9 (2) The department:

10 (a) is responsible for the management of wild buffalo or bison in this state that have not been
11 exposed to or infected with a dangerous or contagious disease but may threaten persons or property;

12 (b) shall consult with the department of livestock on implementation of the provisions of subsection
13 (2)(a); and

14 (c) shall assist the department of livestock in managing wild buffalo or bison that enter the state
15 on public or private land from a herd that is infected with a dangerous disease, as provided in [section
16 1]. The department of livestock is authorized under the provisions of [section 1] to regulate wild buffalo
17 or bison in this state that pose a threat to persons or livestock in Montana through the transmission of
18 contagious disease.

19
20 **NEW SECTION.** **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
21 integral part of Title 81, chapter 2, part 1, and the provisions of Title 81, chapter 2, part 1, apply to
22 [section 1].

23 (2) [Section 2] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the
24 provisions of Title 87 apply to [section 2].

25
26 **NEW SECTION.** **Section 4. Repealer.** Section 87-1-215, MCA, is repealed.

27
28 **NEW SECTION.** **Section 5. Effective date.** [This act] is effective on passage and approval.

29 -END-

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN KEN MESAROS, on February 16, 1995, at
12:30 P.M.

ROLL CALL

Members Present:

Sen. Kenneth "Ken" Mesaros, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Bruce D. Crippen (R)
Sen. William S. Crismore (R)
Sen. John R. Hertel (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Judy H. Jacobson (D)
Sen. Terry Klampe (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council
Serena Andrew, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 352, SB 312
Executive Action: SB 303, SB 267, SB 367, SB 352 & SB 312

EXECUTIVE ACTION ON SB 303

Motion:

SENATOR BOB PIPINICH, SD #29, MISSOULA, MOVED AMENDMENT NO. 1 TO
SB 303.

ANDREA MERRILL, LEGISLATIVE COUNCIL STAFF, stated that there were
two amendments from the sponsor, one from the Department of Fish,
Wildlife & Parks (DFWP), and one from SENATOR MESAROS, SD #25,
CASCADE.

Closing by Sponsor:

SENATOR GROSFIELD told the committee this was not a game farm bill. He had heard a suggestion to include the language, "until disease is eradicated" and he said he would not object to a termination date on the bill, but preferred the language, "...until the Yellowstone bison have achieved brucellosis-free status."

It is not just a disease problem; it is next to impossible to keep fences in place and the cost of maintaining fences is prohibitive. Undulant fever is brucellosis in humans and it is incurable.

VICE CHAIRMAN AL BISHOP ASSUMED THE CHAIR FOR THE HEARING ON SB 312.

HEARING ON SB 312Opening Statement by Sponsor:

CHAIRMAN KEN MESAROS said the intent of SB 312 was to streamline and clarify the duties of the departments of Livestock and Fish, Wildlife & Parks in management of bison leaving Yellowstone National Park and suspected of carrying brucellosis. The present bison population of YNP is estimated to be in excess of 4,000 while the park's carrying capacity is estimated to be approximately 1,200.

SENATOR MESAROS said he had received amendments from DFWP (EXHIBIT #3).

The Department of Livestock would be given the lead in controlling bison that have been identified with brucellosis. The DOL would be responding to contagious disease that affects the cattle industry; DFWP would be allowed to assist. If bison were identified as free of disease at some point in the future, DFWP could develop a hunting program.

Montana spent \$30 million to eradicate brucellosis. If the brucellosis-free status is lost, industry will pay \$10 million annually for vaccinations. Sanctions have recently been placed on Montana by five other states. Having DOL address the problem would help perceptually.

Bison would be physically removed by the safest and most expeditious manner or destroyed by the use of firearms. Carcasses would be donated to Indian tribes or sold to help defray expenses. DFWP would be responsible for management of disease-free bison threatening persons or property.

The bill was designed to streamline functions of both departments and augment the current lawsuit initiated by Governor Racicot. It would also identify the fact that there is a need for

Yellowstone National Park to arrive at a long-term solution, but it is very difficult for the State of Montana to dictate federal policy.

Proponents' Testimony:

CORK MORTENSON, Executive Director of the Department of Livestock, said SENATOR MESAROS had contacted his department about the contents of SB 312 and his department supported the measure (EXHIBIT #4).

GEORGE HAMMOND, President, Montana Stockgrowers, strongly supported the bill because diseased Yellowstone bison threaten Montana's cattle industry (EXHIBIT #5).

FRANK RIGLER said it has been mentioned that elk migrating from Yellowstone Park may also carry brucellosis, but thought if the bison herd became disease-free, the problem with elk would take care of itself.

LORNA FRANK, Montana Farm Bureau, said five or six and possibly as many as eight states now require testing of animals coming out of Montana. This is a great economic burden to farmers and ranchers. She urged support of the bill.

GEORGE PAUL, Montana Farmers Union, said his organization, representing about 4,000 rural families, strongly supported SB 312. The issue is serious. He believed SENATOR MESAROS had gone a long way to outline a clear, cooperative effort between agencies, and urged support of SB 312.

DAVID RIGLER supported the bill and said it would help if YNP would act.

Opponents:

STEVE ANTONIOLI, Skyline Sportsmen, said brucellosis should be the responsibility of DOL; personal injury should be the responsibility of DFWP. DFWP has long been given the burden of dealing with brucellosis and hunters are paying for it through license fees. Sportsmen are receiving nothing from this control program. He had hoped for some kind of hunting, but DFWP refused.

Mr. Antonioli said he didn't mind paying taxes, but didn't agree with using license fees for brucellosis control. The Skyline Sportsmen filed a lawsuit to make the state follow the 1991 law. If this bill did what SENATOR MESAROS said it would and put the burden on DOL, it appeared the bill would relieve the department's responsibilities under the 1991 law. The bill "requires" DFWP to assist in brucellosis control. That would make it legal to use license fee money for wardens to shoot bison.

On the second page the bill states hunting wild bison is not appropriate. Hunting is the only way sportsmen can recoup their benefits. The bill says there might be a buffalo hunt in the future, but he didn't believe it would happen soon.

TONY SCHOONEN, Anaconda Sportsmen's Association, concurred with everything **Mr. Antonioli** said. Their two organizations were able to get the buffalo bill passed in 1985. He agreed with the DOL's concern about brucellosis and undulant fever, but out of all the buffalo killed until the hunt was eliminated in 1991, none of the hunters contracted undulant fever.

He thought hunters had done a good job of controlling bison. The bill says DFWP will use license dollars for control actions. It isn't fair. He thought it would be a miracle if the park service did anything in the near future.

JEAN SOUVIGNY, Greater Yellowstone Coalition, commented that the process was taking a very long time, and agencies were currently operating under the interim plan. She wondered if the door would remain open on the interim plan. Even the Governor has supported alternatives. Her organization wanted to be sure those options were not foreclosed.

Questions From Committee Members and Responses:

SENATOR SPRAGUE asked **Mr. Graham** if he were comfortable with giving up his position on the buffalo and giving the responsibility to DOL. **Mr. Graham** responded that it depended on how the bill was read. The bill clarifies that when disease is the issue DOL is in charge. It is merely a different way of wording what is in the present rule.

The specific duties of DFWP are outlined as: Section 2, Subsection (2)(a) "...responsible for the management of wild buffalo or bison in this state that have not been exposed to or infected with a dangerous or contagious disease but may threaten persons or property; and (b) "shall consult with DOL on implementation of the provisions of (2)(a); and (c) "shall assist the DOL in managing wild buffalo or bison that enter the state on public or private land from a herd that is infected with a dangerous disease...."

While the responsibilities are different, the animal going through a fence might also be infected with brucellosis.

SENATOR SPRAGUE commented that he was sympathetic, but wondered if it would be necessary to go through Livestock from now on whenever there was a problem with bison. **Mr. Graham** said that for disease control purposes, DOL would be the lead agency - under current law and this bill as well.

{Tape: 2; Side: A;}

SENATOR SPRAGUE asked if every bison were assumed to be diseased. **Dr. Siroky, DOL**, said it's possible to vaccinate bison to make them disease-free. Once they are clean, **DOL** is out of the picture.

SENATOR KLAMPE asked if brucellosis were the only disease of concern. **Dr. Siroky** said yes.

SENATOR KLAMPE asked if **Dr. Siroky** saw any potential that this bill would interfere with the ability to formulate an alternative plan. **Dr. Siroky** answered no, because it would still be possible to capture, haze, etc.

SENATOR KLAMPE asked **Jean Souvigny** if the discussion had satisfied her concerns. **Ms. Souvigny** responded that it had. If **DOL** felt that quarantine was not precluded, her organization was comfortable with it.

SENATOR PIPINICH stated that the committee had two bills in hand and one or two coming from the House. If one should come over that brings back hunting, he asked **SENATOR MESAROS** if he would support it. **SENATOR MESAROS** said his bill did not eliminate hunting bison. It would allow hunting of disease-free bison in the future, but he would resist opening up public hunting without strict supervision because of the disease potential.

SENATOR PIPINICH commented that not one person contracted undulant fever while bison were hunted. The veterinarian said as long as these bison are cooked to a certain point, the meat is safe. He asked why **SENATOR MESAROS** was opposed to reopening the hunt.

SENATOR MESAROS said he believed the disease could be contracted through a person's skin while dressing the animal, and he believed the hunt had been safe because it was highly supervised. He had presented the bill on behalf of public health.

SENATOR SPRAGUE asked if hunting would ever be appropriate, since the bill says hunting of wild bison is not appropriate. **SENATOR MESAROS** responded that a major portion of this bill uses language in existing law.

SENATOR HERTEL asked **Frank Rigler** if the hunt had been successful in his area. **Mr. Rigler** said it had been successful for hunters but not for ranchers. The animals that were not shot dispersed. If hunters had killed them all as they came out of the park it would have been better. He also mentioned that he thought a man in Red Lodge had contracted undulant fever following a hunt.

Closing by Sponsor:

SENATOR MESAROS commented that he appreciated the good hearing on his bill. It was not an anti-hunting bill. His concern was addressing brucellosis and the public health problem. He wanted to augment the interim plan and the Governor's lawsuit. It was not an anti-DFWP bill either - merely a very difficult issue.

EXECUTIVE ACTION ON SB 312

Motion:

SENATOR FORRESTER MOVED THE AMENDMENTS. SENATOR MESAROS SAID A FURTHER AMENDMENT FROM DFWP SHOULD BE INSERTED ON PAGE 2, LINE 16 FOLLOWING 1]. INSERT "UNDER A PLAN APPROVED BY THE GOVERNOR..." THIS STATEMENT WAS ACCIDENTALLY OMITTED. THE AMENDMENTS PASSED.

SENATOR FORRESTER MOVED SB 312 DO PASS AS AMENDED.

Discussion:

SENATOR KLAMPE asked what could be done immediately for bison control. SENATOR MESAROS replied that DFWP and DOL could respond to bison leaving the park - over 300 have been shot this year.

SENATOR KLAMPE asked what the difference would be. SENATOR MESAROS said the bill would give DOL the lead role on a disease basis and DFWP would be responsible for animals identified as disease-free in the future.

SENATOR MILLER said it wasn't clear to him whether or not future hunting would be limited.

SENATOR JACOBSON commented that the point had been made earlier - the wording that hunting is not appropriate is in present law. She thought the point was that DFWP said they don't feel managing the disease through hunting is appropriate, but they didn't say they thought hunting was not appropriate.

SENATOR MESAROS agreed that the section being discussed is existing law. For drafting purposes, it is simpler to go back and make changes to existing law. DFWP is given authority for future hunting on lines 10 and 11 on page 2 where it says the department is responsible for the management of wild buffalo that have not been exposed to disease.

SENATOR MILLER MADE A SUBSTITUTE MOTION TO AMEND THE BILL: ON PAGE 2, LINE 4, AFTER "BISON IS" TO STRIKE "NOT" AND INSERT AFTER "APPROPRIATE AND" AND STRIKE "BUT" TO READ: THE LEGISLATURE FINDS THAT THE MANAGEMENT THROUGH HUNTING OF PUBLICLY OWNED WILD BUFFALO OR BISON IS APPROPRIATE AND THAT SIGNIFICANT POTENTIAL EXISTS FOR SPREAD OF CONTAGIOUS DISEASE...."

SENATOR MESAROS stated that some language was omitted from the previous amendment just adopted. For clarification purposes, that sentence would read: "The legislature finds that the management through hunting of publicly owned wild buffalo or bison originating in YNP is not appropriate, but that significant potential exists...."

SENATOR MILLER agreed his sentence was not correct and restated his amendment: "The legislature finds that the management through hunting of publicly owned wild buffalo or bison originating from YNP is appropriate and that significant potential exists for the spread of contagious disease to persons or livestock in Montana and for damage to personal property by wild buffalo and bison." He said his point was that hunting was one appropriate way to handle diseased bison.

MS. MERRILL suggested that an easier way to make the point would be to say "The legislature finds...hunting...bison from the park may be appropriate but the potential for disease exists."

SENATOR MILLER agreed.

SENATOR CRIPPEN commented that it would depend on how strong a statement the committee wanted to make - the law was being repealed.

SENATOR KLAMPE said it seemed the wording was irrelevant at that point. He asked if the amendment were consistent with the intent of the bill. SENATOR MESAROS said it was not.

SENATOR HERTEL commented that the amendment took the emphasis away from the bill - to get the park to do something about the problem.

SENATOR PIPINICH said both bills heard that day were good, but there was no time to work on them. He asked if they could be tabled, put together with the bills from the House, put into a subcommittee and still get them out.

SENATOR MESAROS said no, this was a consensus bill.

SENATOR BISHOP asked SENATOR MILLER if he would consider withdrawing his amendment and rewording the motion to read: "The legislature finds that the potential exists for the spread of contagious disease to persons or livestock from bison migrating from YNP and for damage to persons or property." After "species" on line 7: "A species not requiring disease control or which appears to need disease control."

SENATOR MILLER WITHDREW HIS ORIGINAL AMENDMENT AND SUBSTITUTED THE MAY BE APPROPRIATE AMENDMENT SUGGESTED BY MS. MERRILL.

Motion/Vote:

SENATOR MILLER MOVED SB 312 BE AMENDED AS FOLLOWS: PAGE 2, SECTION 2. (1) THE LEGISLATURE FINDS THAT THE MANAGEMENT THROUGH HUNTING OF WILD BUFFALO OR BISON MAY BE APPROPRIATE BUT THE POTENTIAL FOR DISEASE EXISTS. A ROLL CALL VOTE RESULTED IN FIVE SENATORS VOTING AYE AND SIX VOTING NO AND THE SUBSTITUTE MOTION FAILED.

SENATOR MESAROS REQUESTED THE VOTE ON THE DO PASS AS AMENDED MOTION. A ROLL CALL VOTE RESULTED IN FIVE VOTING AYE AND SIX VOTING NO AND THE MOTION FAILED.

SENATOR PIPINICH MOVED TO RECONSIDER AND TABLE SB 312. SENATOR MESAROS COMMENTED THAT THIS MIGHT BE A PROBLEM WITH TRANSMITTAL AND SENATOR PIPINICH WITHDREW HIS MOTION.

EXECUTIVE ACTION ON SB 352

Motion:

SENATOR HERTEL MOVED THE AMENDMENTS. ALL VOTED AYE AND THE MOTION CARRIED.

Motion/Vote:

SENATOR HERTEL MOVED SB 352 DO PASS AS AMENDED. A ROLL CALL VOTE RESULTED IN FOUR NO VOTES AND SEVEN AYE VOTES AND THE MOTION CARRIED.

EXECUTIVE ACTION ON SB 367

Motion:

SENATOR KLAMPE MOVED TO TABLE SB 367. SENATOR MESAROS ASKED FOR DISCUSSION BEFORE MOVING TO TABLE THE BILL.

Discussion:

SENATOR BISHOP said the committee should consider the source of the funding for the habitat program; it comes from hunting license fees and it does not matter whether they are resident or nonresident fees.

His second point was that several Montana court cases have stated that wild animals have always existed in Montana, they cause damage, and a landowner cannot expect to be compensated for that damage. The funding for the habitat program comes from sportsmen's dollars and it was set aside for a specific purpose.

**MONTANA SENATE
1995 LEGISLATURE
FISH AND GAME COMMITTEE**

ROLL CALL

DATE

2/16/95

[illegible]

SEN:1995
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MONTANA SENATE
1995 LEGISLATURE
FISH AND GAME COMMITTEE
ROLL CALL VOTE

DATE 2/16/95 BILL NO. SB 312 NUMBER 1

MOTION: Sen Meszaros - Withdraw his original motion;
substitute G. Marilee Wording "... hisson from Guy
may be appropriate ..."

NAME	AYE	NO
BRUCE CRIPPEN	X	
WILLIAM CRISMORE		X
GARY FORRESTER		X
JOHN HERTEL		X
JUDY JACOBSON	X	
TERRY KLAMPE		X
KEN MILLER	X	
BOB PIPINICH		X
MIKE SPRAGUE	X	
AL BISHOP, VICE CHAIRMAN	X	
KEN MESAROS, CHAIRMAN		X

SEN:1995
wp:rlclvote.man
CS-11

MONTANA SENATE
1995 LEGISLATURE
FISH AND GAME COMMITTEE
ROLL CALL VOTE

DATE 2/16/95 BILL NO. SB 312 NUMBER 2

MOTION: Meseros: Motion SB 312 Do Pass

NAME	AYE	NO
BRUCE CRIPPEN	X	
WILLIAM CRISMORE	X	
GARY FORRESTER	X	
JOHN HERTEL	X	
JUDY JACOBSON		X
TERRY KLAMPE		X
KEN MILLER		X
BOB PIPINICH		X
MIKE SPRAGUE		X
AL BISHOP, VICE CHAIRMAN		X
KEN MESAROS, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
FISH AND GAME COMMITTEE
ROLL CALL VOTE

DATE 2/16/95 BILL NO. SB 312 NUMBER 3

MOTION: Meseros: On reconsideration of SB 312
I move the bill do pass as amended

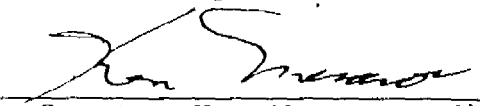
NAME	AYE	NO
BRUCE CRIPPEN	X	
WILLIAM CRISMORE	X	
GARY FORRESTER	X	
JOHN HERTEL	X	
JUDY JACOBSON		X
TERRY KLAMPE		X
KEN MILLER		X
BOB PIPINICH		X
MIKE SPRAGUE		X
AL BISHOP, VICE CHAIRMAN		X
KEN MESAROS, CHAIRMAN	X	

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 17, 1995

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration SB 312 (first reading copy -- white), respectfully report that SB 312 be taken from the committee by motion.

Signed: 

Senator Ken Mesaros, Chair



Amd. Coord.
Sec. of Senate

411702SC.SPV

DATE 2/16/95SENATE COMMITTEE ON Fish & GameBILLS BEING HEARD TODAY: Execution SB 267, 303
367 - Hearing 312 + 352

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Franklin J. Ripley	Rancher/Hunter	312	X	
Franklin J. Ripley	" "	352	X	
Conk Mortenson	Brd. of Livestock	312	X	
Janet Ellis	MT Audubon	352	X	
Tom Schooner	Angels Sports	SB 312		X
George Paul	Farmers Union	SB 312	X	
David Ripley	Rancher	SB 312 SB 352	X	
George Paul	Farmers Union	SB 352	X	
George Hammond	Pres. - MT Stockgrowers	SB 312 352	✓	
Steve Antoniali	Pres - Skyline Sports	SB 312		X
Tom Schooner	Myself	352	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Amendments to Senate Bill No. 312
1st Reading Copy

Requested by Senator Mesaros
For the Committee on Fish and Game

Prepared by Andrea Merrill
February 14, 1995

1. Title, line 6.

Strike: "ASSIST"

Insert: "COOPERATE WITH"

2. Title, line 7.

Following: "MANAGING"

Insert: "CERTAIN"

3. Page 1, line 14.

Following: "livestock"

Insert: "or whenever the presence of wild buffalo or bison may
jeopardize Montana's compliance with federally administered
livestock disease control programs"

4. Page 1, line 15.

Strike: "take"

Insert: "use any feasible method in taking "

Following: "one"

Insert: "or more"

5. Page 1, line 28.

Following: "to"

Insert: "a charity or to"

6. Page 2, line 3.

Strike: "requiring disease control"

Insert: "in need of management -- policy -- department duties"

7. Page 2, line 4.

Following: "hunting of"

Insert: "publically owned"

Following: "bison"

Insert: "originating from Yellowstone national park"

8. Page 2, line 6.

Following: "section"

Insert: ":"

(a)"

Following: "designate"

Insert: "publically owned"

9. Page 2, line 7.

Strike: ", which have not been reduced to captivity,"

Insert: "originating from Yellowstone national park"

Following: "control"

Insert: ";

(b) to designate other wild buffalo or bison as a species in need of management;"

10. Page 2, line 7.

Following: "and"

Insert: "(c)"

11. Page 2, line 12.

Following: "consult"

Insert: "and coordinate"

12. Page 2, line 14.

Strike: "assist"

Insert: "cooperate with"

Following: "managing"

Insert: "publically owned"

13. Page 2, line 16.

Following: "regulate"

Insert: "publically owned"

14. Page 2, line 19.

Following: line 18

Insert: "(3) The department and the department of livestock are strongly urged to enter into an agreement with the national park service for the long-term management of the Yellowstone national park wild buffalo or bison herd. If the national park service does not proceed in good faith in a timely manner to enter a long-term management agreement, that in the determination of the department and the department of livestock, responds adequately to the needs of Montana, the departments are strongly urged to take appropriate court action. The department and the department of livestock shall prepare a joint report to the 55th legislature regarding the present state of wild buffalo or bison management in Montana and any progress on an agreement for the long-term management of the Yellowstone national park herd."

SENATE FISH AND GAME
EXHIBIT NO. 4
DATE 2/16/75
BILL NO. SB 312

SENATE BILL 312
(Senator Ken Mesaros)

Mr. Chairman and members of the committee, for the record my name is Cork Mortensen and I am the Executive Secretary to the Board of Livestock. The Board and Department of Livestock supports this legislation and urges you to support Senate Bill 312.

This legislation will give the Department of Livestock primacy in bison management until such time as the danger of infectious disease has passed, at which time primacy for bison management for non-diseased bison will revert back to the Department of Fish, Wildlife & Parks.

Thank you for your time and consideration in this matter. Once again, the Board and Department of Livestock urge you to support this legislation. If you have any questions or need more information, I should be happy to respond.



E.E. "Cork" Mortensen, Executive Secretary
To the Board of Livestock

**TESTIMONY OF GEORGE HAMMOND
MONTANA STOCKGROWERS ASSOCIATION
S.B. 312 - SENATOR MESAROS**

Mr. Chairman and members of the committee, my name is George Hammond and I am the President of the Montana Stockgrowers Association. I am testifying today in support of S.B. 312 on behalf of the Montana Stockgrowers Association.

The problem with bison emerging from Yellowstone National Park has directly impacted the Montana cattle industry. Montana's brucellosis-free status was a hard fought battle which cost this state's cattle producers millions of dollars to achieve. Bison entering Montana from Yellowstone Park are known to carry, or be exposed to, brucellosis which causes a threat to this state's brucellosis-free status.

In the past few months five states have required the testing of breeding age female cattle leaving Montana. Also, the USDA-APHIS has threatened to pull Montana's brucellosis-free status. Should APHIS revoke our brucellosis-free status, the cattle industry would be seriously damaged.

The reason for this problem is very evident. The Yellowstone National Park bison herd is known to be infected with brucellosis. The National Park Service has refused to accept responsibility for managing the Park's bison herd which has expanded to numbers beyond the available forage available in the Park. The Park has also been very reluctant to implement management measures to eradicate and control brucellosis in the Park's bison herd.

The result of the Park's mismanagement of the bison herd has forced the State of Montana into litigation, and has exemplified the need to change the management philosophy in Yellowstone National Park. The MSGA appreciates the efforts of the Governor and the congressional delegation in recognizing the serious nature of the brucellosis issue for the State of Montana.

S.B. 312 represents a clear and concise procedure for the State of Montana to pursue until a long-term solution and brucellosis eradication program is established by the Park Service. S.B. 312 sets forth clear statutory authority for the Department of Livestock to take action regarding bison which enter this state from Yellowstone National Park bison herd. S.B. 312 also clearly sets forth the role of the Department of Fish, Wildlife, & Parks. Under the bill, and the amendments offered by Sen. Mesaros, DFWP will cooperate with the Department of Livestock to control those bison which enter Montana from Yellowstone National Park. The bill also states that if, and when, the brucellosis problem is addressed, DFWP will be responsible for the management of bison which are NOT exposed or infected with the disease.

The brucellosis threat surrounding Yellowstone National Park is real to Montana's cattle industry. S.B. 312 represents a positive step for Montana to take to protect the livestock industry from a problem created by the National Park Service. S.B. 312 is a rationale interim measure until final eradication of brucellosis is achieved by the Park Service. On behalf of the Montana Stockgrowers Association, I urge your support.

**Montana Department
of
Fish, Wildlife & Parks**

SENATE FISH AND GAME

EXHIBIT NO. 6

DATE 2/16/95

BILL NO. 312



P. O. Box 200701
Helena, MT 59620-0701
(406) 444-3186
FAX: 406-444-4952
Ref: PG0097.95
February 17, 1995

Senator Kenneth Mesaros
Capitol Station
Helena, MT 59620

Dear Senator Mesaros:

I appreciate your interest in working with us on amendments to SB 312. I believe these amendments help clarify the intent of the bill and clarify the roles and responsibilities of each agency.

Since our role in protecting private property generally occurs simultaneously with disease control actions, we have worked cooperatively with Livestock and the National Park Service and will continue to do so under this bill. Clarification of roles should address some of the criticisms about our agency spending too much money or effort on disease control actions.

I understand the intent of SB 312 is to more clearly spell out DoL's responsibility for decisions to remove bison that migrate from Yellowstone National Park when they jeopardize Montana's brucellosis-free status. This bill is intended to provide the State Veterinarian more credibility to communicate to other states and APHIS his ability to protect Montana cattle.

Retaining language currently in law that directs the state's efforts toward a long-term plan and support for the lawsuit is important. Clearly we must continue to apply pressure on the two federal agencies while maintaining consistent policy and actions from the State of Montana.

We also support retaining the moratorium on hunting of diseased bison. We cannot control this problem from our side of the border. Anything that shifts attention away from the Federal agencies responsibilities to address these problems, such as a public hunt, will undermine the progress gained in the Governor's lawsuit. We discussed with the House Fish and Game Committee having FWP evaluate developing an experimental public bison herd in the state with animals certified by the State Vet. These would be bison captured from Yellowstone that would otherwise be hauled to slaughter.

Sen. Mesaros - PG0097.95

Page 2

February 17, 1995

Once again, I appreciate your desire to build consensus by including us in review of SB 312 and your incorporation of our amendments. This allows us to support your efforts.

Sincerely,

A handwritten signature in cursive script, reading "Pat Graham". The signature is written in dark ink and is positioned above the printed name and title.

Patrick J. Graham
Director

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN DOUG WAGNER, on March 7, 1995, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Douglas T. Wagner, Chairman (R)
Rep. William Rehbein, Jr., Vice Chairman (Majority) (R)
Rep. Emily Swanson, Vice Chairman (Minority) (D)
Rep. Charles R. Devaney (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Marian W. Hanson (R)
Rep. Chase Hibbard (R)
Rep. Dick Knox (R)
Rep. Rod Marshall (R)
Rep. Brad Molnar (R)
Rep. Robert J. "Bob" Pavlovich (D)
Rep. Bob Raney (D)
Rep. Robert R. "Bob" Ream (D)
Rep. Paul Sliter (R)
Rep. Bill Tash (R)
Rep. Jack Wells (R)

Members Excused: Rep. Hal Harper (D)

Members Absent: None.

Staff Present: Doug Sternberg, Legislative Council
Mary Riitano, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 312, SB 352
Executive Action: None.

{Tape: 1; Side: A; Approx. Counter: 000; Comments: N/A.}

HEARING ON SB 312

Opening Statement by Sponsor:

SEN. KEN MESAROS, Senate District 25, Cascade, distributed an exhibit identifying the responses of two major agencies in the state of Montana regarding the bison problem. SB 312 was an act requiring the Department of Livestock to take certain actions with regard to wild buffalo entering the state of Montana. It also required the Department of Fish, Wildlife and Parks (FWP) to cooperate with the Department of Livestock in managing certain wild buffalo as a species requiring disease control. SEN.

MESAROS read the Statement of Intent from the bill. The Department of Livestock would be allowed to shoot diseased wild buffalo while FWP would be allowed to manage uninfected bison to protect against damage to people or property. Brucellosis is a problem within bison herds and has the potential of being hazardous to Montana's cattle. Because of this, the state's brucellosis-free status is jeopardized. SB 312 would allow a reasonable response to the current threats against the health of the cattle industry. It was meant to augment the governor's plan. The ultimate goal is to control brucellosis.

FWP and the Department of Livestock were strongly urged to enter into a long-term agreement with the National Park Service for the management of Yellowstone National Park's bison herd. If the National Park Service does not proceed in good faith in a timely manner, the state departments were strongly urged to take appropriate court action. SB 312 required that a report be presented to the 55th Legislature regarding the state of the bison herd. EXHIBIT 1

Proponents' Testimony:

Bob Martinka, FWP, distributed written testimony. Conflicting policies of two federal agencies, USDA Animal and Plant Health Inspection Service (APHIS) and the National Park Service (NPS), have created an unacceptable situation for the state of Montana. The mere presence of bison in Montana threatens the state's brucellosis-free certification. SB 312 clarified the responsibilities of both the Department of Livestock and FWP. In addition, SB 312 designated the Department of Livestock as the lead agency for actions to eliminate bison originating from Yellowstone National Park. EXHIBIT 2

Cork Mortensen, Executive Secretary, Department of Livestock, stated that SB 312 would give primacy to the Department of Livestock for bison management until the disease was eradicated. The department had worked closely with the sponsor and with FWP in arriving at the consensus found in SB 312.

Dr. Clarence Siroky, State Veterinarian, stated that brucellosis was a public health disease and was present in about 50% of buffalo. Currently, 136 herds in the United States are infected. The disease lies in a large portion of the central United States. One cow can infect thousands of others. APHIS has taken the position that bison represent a threat and will not tolerate free-roaming bison within Montana. They have threatened to remove Montana's brucellosis-free status if the problem of infected bison coming into the state from the park was not addressed. Montana currently has to test cattle going to certain states to ensure that they are brucellosis-free.

People can get brucellosis. Many physicians are not familiar with brucellosis symptoms because it has been so successfully eradicated. Brucellosis infects the meat and tissues of an animal. However, cooking meat thoroughly removes the potential of getting the disease. When people handle game animals, they should be extremely careful not to cut themselves and not to touch reproductive organs.

Dr. Siroky stated that APHIS wanted to see action before they will remove sanctions. Testing the bison and shooting the diseased animals is one way of eliminating the spread of the disease. Another way is to spay or neuter the animals. If bison were allowed to come into the state for the purposes of a public hunt, their mere presence causes problems, including a threat to public health. Allowing a public hunt would scatter the bison herd across a wider area. He urged the committee to support SB 312.

John Bloomquist, Montana Stockgrowers Association, stated that the largest problem stemmed from the policy of the National Park Service, which has been a "no management" policy. This has resulted in the spread of brucellosis. Because of their policy, federal agencies have made no efforts to control or eradicate the disease. The other problem with the "natural management philosophy" is poor range conditions. There is a severe overgrazing problem in Yellowstone National Park. Because of the population explosion and heavy snowfalls during the winters, bison have been migrating out of the park to find food.

As a result of management philosophies, seven states require that Montana cattle be tested for brucellosis. Cattle sales have been drastically reduced. SB 312 dictated that Montana could eliminate infected bison entering the state and clarified the duties of FWP and the Department of Livestock. **Mr. Bloomquist** was not opposed to hunting, but it is not a solution to the brucellosis problem. Once the brucellosis eradication program is successful, hunting would be acceptable.

{Tape: 1; Side: B; Approx. Counter: 000; Comments: Lost 5 seconds at the end of Mr. Bloomquist's testimony.}

Lorna Frank, Montana Farm Bureau, supported SB 312. The Department of Livestock should be taking care of the brucellosis problem in bison since they were already responsible for handling the disease found in cattle. She did not want federal agencies taken "off of the hook" for the control of the bison within the park. She urged the committee to pass the bill.

REP. BILL TASH, House District 34, Dillon, expressed strong support for the bill. Brucellosis nearly put his family out of business in the 1930's after 50 years of livestock production. Because of brucellosis, the entire herd was liquidated, and they had to start over. Currently, his cattle herds were threatened as much as they were 60 years ago from the brucellosis found in bison within Yellowstone National Park. It has been an expensive and ongoing effort to maintain brucellosis-free cattle. Federal agencies should ultimately be responsible for the problem, but in the interim, Montana should take "band-aid" measures to improve the situation. He urged the committee to support the bill.

John Bloomquist, Montana Stockgrowers, spoke on behalf of **Les Graham, Montana Livestock Market Association and Montana Dairymen's Association**, who supported the bill.

REP. DICK KNOX, House District 93, Winifred, agreed with **REP. TASH**. SB 312 was an excellent compromise and was the only way to address the problem.

Opponents' Testimony:

Tony Schoonen, Skyline Sportsmen's Association and Anaconda Sportsmen's Association, stated that they did not oppose the "main thrust of the bill." The brucellosis-free status was very important. However, hunting has continued to be put off. Sportsmen have been paying the bill for bison control actions and were not receiving any benefits. He read a letter from **Steve Antonioli, Skyline Sportsmen's Association**, opposing the bill. The letter described how hunters have "footed" the bill over brucellosis control. To be fair, the bill should be amended so that the Department of Livestock would have to assume the entire cost of brucellosis control for the next four years. **EXHIBIT 3**

Stan Frasier, citizen, stated that he supported most of the bill. The brucellosis problem was a livestock issue and should be handled by the Department of Livestock. However, he objected to subsection (4) on page 4 which stated, "The department may adopt rules with regard to wild buffalo or bison that have not been exposed to or infected with a contagious disease but are in need of management because of potential damage to person or property." This was clearly outside of the parameters of disease control. Bison are wild animals and should be allowed to roam.

Keith Atcheson, Montana Chapter of the Safari Club International, distributed written testimony. SB 312 did not authorize FWP to create a hunt for bison originating from Yellowstone National

Park because they were classified as "diseased" animals. The Department of Livestock would only be given authorization to handle the bison. A viable cost-effective management option was being overlooked if FWP was not allowed the option of establishing a bison hunt. They requested that FWP be allowed to have the option of hunting where it is feasible. **EXHIBIT 4**

Questions From Committee Members and Responses:

REP. TASH asked **Mr. Atcheson** who should test the bison to determine if they were disease-free. **Mr. Atcheson** stated that it was difficult to tell if a buffalo was disease-free. He was referring to bison that would not be in direct contact with cattle. **REP. TASH** asked about his proposed amendment. **Mr. Atcheson** said that FWP should have the hunting option for bison that were not going to be in direct contact with cattle. Testing bison for disease was up to the state. **REP. TASH** stated that it was not the state's herd but rather the federal government's herd.

REP. DICK KNOX expressed concern over motivating the National Park Service (NPS) to test and control brucellosis within the boundaries of the park. He asked **Dr. Siroky** if a comprehensive disease control program had been presented by the state to the NPS. **Dr. Siroky** stated that a number of different possibilities for disease control for inside and outside of the park had been presented. However, the NPS has indicated a "hands off" policy. NPS has been claiming that brucellosis found in bison does not cause the same disease in cattle. According to NPS, it was a different bacteria. NPS also did not believe a disease could be transmitted from bison to cattle. **Dr. Siroky** maintained that through controlled experiments, the disease is transmitted from bison to cattle. He stated that part of the rationale of NPS is that brucellosis does not cause a problem in the park.

REP. KNOX asked if the park service maintained the attitude that control was not needed. **Dr. Siroky** said that he and FWP personnel returned totally frustrated from meetings with NPS. NPS would not acknowledge that brucellosis needed to be controlled within the park. At the same time, brucellosis cannot be tolerated outside of the park; it was a large threat. Recently, 52 bison were killed outside of the park and about 65% of those bison were infected with brucellosis. Historically, the infection rate was about 50%. The infection rate in bison bulls in West Yellowstone during the last kill was 76%.

REP. KNOX asked if the proposals that NPS rejected would have been workable control measures. **Dr. Siroky** stated the proposals had been successful with time and practice. They were not experimental methods and have worked with other herds. If the methods were used aggressively, the disease could be eliminated in the park. It would take awhile and may utilize some unconventional methods. Beginning in 1940 and through 1960 on

the Moiese Bison Range, bulls were vaccinated and brucellosis was eliminated.

REP. KNOX asked about the timeframe being considered. Dr. Siroky said it would take about 10 years using aggressive methods to virtually eliminate the disease. Some people have estimated three years, but it may not include all bison. With the new oral vaccination and timeframe of about 10 years, the disease could be eliminated.

REP. BOB REAM stated that the brucella organism was found in the uterus of the female bison and caused abortions during the last trimester. The mode of transmission of brucellosis was ingestion of the aborted tissue. He asked Dr. Siroky if this was correct. Dr. Siroky said yes. The most common mode of transmission within a herd, once the disease was present, was through the oral ingestion of reproductive fluids. REP. REAM asked if bison bulls transmit the disease. Dr. Siroky said if bulls only transmitted the disease, the disease would probably die out. However, if one infected bull transmitted the disease to one female bison, that female bison could transmit it to a herd of 1,000. REP. REAM asked when bison begin calving. Dr. Siroky stated they started about the middle of May and continued until the middle of July.

REP. REAM asked Dr. Siroky about the policy regarding areas in the state that would never have cattle. Dr. Siroky stated that other states and APHIS recognize that the Montana Department of Livestock had control over all public and private lands in Montana as far as disease was concerned. If a disease is found in any species of animals on those lands, the Department of Livestock was obligated to control the disease. If the other states and APHIS feel that Montana was not taking care of its obligation regarding brucellosis, the state's status would continue to be downgraded.

REP. REAM asked about the role of APHIS and what it would take to get the other states to withdraw testing requirements.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: N/A.}

Dr. Siroky said it must be clearly delineated that Montana was in control of infectious bison within the state. Infected bison should not be allowed to roam the state of Montana freely. He spoke to APHIS and other states regarding his idea of a quarantine facility where animals would be brought for testing and neutering if necessary. They thought the idea was acceptable. Consequently, the bison would not be uncontrolled, free-roaming, diseased bison. Some may still have the disease, but they would not be able to transmit it. Thus, the situation would be under control. As a result, Montana's brucellosis-free status would be returned with no limitations. If this proposal was undertaken, the message must be sent to federal agencies that Montana still wanted commitment from them.

REP. REAM asked SEN. MESAROS about the intent of amendments to Section 2, subsection (c). SEN. MESAROS stated that the amendments further defined and streamlined the roles of FWP and Department of Livestock. It was done in the context of an Interim Plan.

REP. REAM asked what Section 2 referred to. SEN. MESAROS said the Senate repealed that section and presented new language along with existing language for clarification. REP. REAM stated that Section 2 language coordinated with Section 1 regarding the Department of Livestock. He said there should be similar language in Section 1 coordinating FWP's role. Department of Livestock actions should also be subject to a plan approved by the governor. He asked SEN. MESAROS if he had objections regarding the addition of language that would make the Department of Livestock subject to operating under plans approved by the governor. SEN. MESAROS understood Section 1 coordinated with Section 2 which would include a plan approved by the governor.

REP. REAM asked if the bill would allow bison hunting on public lands outside of the park which did not have cattle if the Interim Plan made that recommendation. SEN. MESAROS stated that the bill allowed for public hunting only after bison were determined to be disease-free. REP. REAM stated, in that case, hunting would not occur for about 10 to 20 years. SEN. MESAROS said the bill allowed hunting in the future. If some of the bison under the proposed plan could be determined disease-free and be relocated to an appropriate place, there could possibly be a public hunt. This would be under the jurisdiction of FWP management. The issue of hunting was complex because of the concern over the brucellosis-free status.

REP. ROD MARSHALL stated that the meat and carcass of a bison could be worth about \$700. He asked SEN. MESAROS why the meat and carcass could not be auctioned and the money used to run the program. SEN. MESAROS stated that it was his intent to maintain the current practice that exists, which involved giving the meat and carcasses away. REP. MARSHALL asked why he wanted to handle it in this manner. SEN. MESAROS referred to previous years during public hunting of bison and the resulting confusion and difficulties surrounding it.

REP. MARSHALL stated that he was not referring to public hunting. He suggested that no matter how the bison were killed, the parts should be auctioned to gain revenue for the program. SEN. MESAROS stated the first priority would be to donate the bison to charity. The second priority would be to sell the bison to help defray expenses. It was in the bill under Section 1, subsection (3)(b). REP. MARSHALL stated that it would be the first priority to give it away. SEN. MESAROS expressed his intent of continuing the existing practice.

REP. BOB RANEY expressed concern over the fiscal expenses of having two departments involved. He asked how SEN. MESAROS felt

about bringing two departments together that have different goals and functions and if it would be more cost-effective to have one department handle the problem. **SEN. MESAROS** said that historically, both departments have been involved. SB 312 just redefined the roles of each department.

REP. RANEY assumed that FWP's role should be the management of wild game animals. Bison were not considered game animals until the Department of Livestock determined which ones were disease-free and they were transported to another area. He asked **SEN. MESAROS** if sportsmen's money was being used improperly. The sportsmen do not get any benefits. **SEN. MESAROS** stated this was the reason the major role was being shifted to the Department of Livestock. FWP will play a minor role in the bison migrating out of the park with the disease.

REP. RANEY asked **Mr. Martinka** if it was "fair and proper" to use sportsmen's money for the management of wild bison that they have no opportunity to harvest. **Mr. Martinka** said they had examined the issue. FWP did not exist solely for the purpose of managing game animals. They were responsible for other nongame animals for which no harvest was allowed. In their opinion, the expenditures were legitimate.

REP. RANEY asked where uninfected bison or bison that had not come into contact with the disease existed. **Mr. Martinka** said that he did not believe any existed in Montana. **REP. RANEY** understood the role of FWP in SB 312 was to develop a hunting plan after the Department of Livestock moved disease-free bison away from Yellowstone National Park. **Mr. Martinka** said that would be one of the responsibilities.

REP. RANEY asked **Mr. Martinka** what FWP's role was until the Department of Livestock developed its plan of action. **Mr. Martinka** explained that, according to the bill, their role was to assist the Department of Livestock.

REP. RANEY expressed much concern over sportsmen's money being used for disease control. SB 312 stated that wild buffalo coming from Yellowstone National Park would be managed for disease. They would not be managed for hunting. He asked **Mr. Martinka** if disease was the only reason that bison were being managed, why sportsmen's money was being used. **Mr. Martinka** said it appeared to be legislatively mandated.

REP. RANEY understood that SB 312 managed bison for brucellosis. He asked **SEN. MESAROS** why sportsmen's money was being used for this purpose. **SEN. MESAROS** said the intent of the bill was to shift the focus to the Department of Livestock. FWP would be allowed to manage bison once they were determined to be disease-free.

REP. JIM ELLIOTT understood that transmission of brucellosis in a herd of cattle was mainly through ingesting of the mucosa from

the infected cow bison. **Dr. Siroky** said it was transmitted primarily through oral contact with reproductive tissues and fluids from an infected animal. **REP. ELLIOTT** said that an infected bull could infect a herd. **Dr. Siroky** explained that it was less probable for a bull to transmit the disease to many bison than it was for a female bison.

REP. ELLIOTT stated that his veterinarian treated many bison around the Moiese Bison Range. His veterinarian said that the Moiese Bison Range herd was not always brucellosis-free but it was always surrounded by a fence. Before the bison were disease-free, there was a high incidence of brucellosis in cattle in the surrounding area. The cattle never had direct contact with the bison, and it was surmised that the disease must have been transmitted through another host to the cattle. When the disease was eradicated from the Moiese Bison Range, it also decreased in cattle in the surrounding area. He asked **Dr. Siroky** if keeping the animals in Yellowstone National Park would be an adequate measure to eradicate the disease. **Dr. Siroky** explained that one of the ways the disease could have traveled from the fenced area to the area outside of it was through predators, such as coyotes. Predators grab a fetus or afterbirth out of the fenced area to eat it and leave part of it. Cattle come along and become infected. Just putting a fence around the park would not completely control the disease.

REP. ELLIOTT said the ideal solution was for the National Park Service to eradicate brucellosis in Yellowstone National Park. **Dr. Siroky** agreed.

REP. CHASE HIBBARD asked **Dr. Siroky** about his earlier statements regarding public health risks from hunting bison. **Dr. Siroky** stated there have been two instances of brucellosis infection diagnosed in humans in Montana in the last eight years. In both cases, the hunters had participated in late elk hunts in the Ennis area. The infection rate in elk was low. However, in a late hunt, the fetus was developed. When hunters cleaned the animal, they opened up the uterus on purpose or by accident and exposed themselves to the disease. The infection rate in bison was much higher. Therefore, the possibility of contracting the disease while dressing the animal after harvesting was much greater.

REP. HIBBARD said the committee had spent considerable time on the issue of bison hunting. It was an extremely important issue to many people. Consideration has been given for ways that the public could participate in harvesting bison. The majority of people realize there is a public health risk. He asked **Dr. Siroky** if there was any situation where people could be involved in a hunt on public land that would still allow disease control and would not jeopardize Montana's status with APHIS. **Dr. Siroky** believed that if animals were neutered or spayed, they could be placed anywhere in the state for a hunt. The other alternative was to set up a quarantine facility for testing

animals for hunting purposes. With a little patience, there could be a group of bison available to hunt.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: Lost 5 seconds.}

REP. HIBBARD asked SEN. MESAROS if the public would be able to be involved sooner than 10 years. SEN. MESAROS said that any time a public hunt was proposed on a diseased animal, there is a threat that exists. Public safety must prevail. SB 312 tried to take all issues into account but still leave options.

REP. TASH said that part of the responsibility of FWP was the safety of sportsmen. He stated that the disease could be transmitted to sportsmen through the harvesting of bison, and it was a definite concern. Mr. Martinka agreed.

REP. REAM referred to the language on page 3, lines 20-25, and assumed that it meant that FWP would continue to cooperate in drafting the Interim and Long-Range Plans. Mr. Martinka said he was correct. REP. REAM asked if hunting was an option recommended under the Interim Plan, would the language in SB 312 allow it. Mr. Martinka said the proposed plans and APHIS regulations must be considered separately regarding the problems with diseased cattle. The plan may determine that hunting was acceptable in a particular area, but it could potentially conflict with APHIS regulations dealing with diseased bison in Montana.

REP. REAM said in the planning process, he hoped that everyone would work toward a compromise. He asked if surrounding states would also be involved in a plan. Mr. Martinka said there was currently a tri-state brucellosis committee examining the brucellosis problem in a larger perspective than just Montana or Yellowstone National Park. It would be difficult to address the issue of eradicating the disease in the park without addressing other game animals, such as elk, who also carry the disease.

REP. BOB PAVLOVICH asked Mr. Martinka if there was a large concern about public safety when buffalo were hunted in the past. Mr. Martinka said there was concern over the issue. FWP informed hunters when they were cleaning the bison that they could potentially contract brucellosis if they had cuts on their hands. REP. PAVLOVICH asked if anyone contracted the disease at that time. Mr. Martinka said he was not aware of anyone who contracted the disease.

REP. DAN FUCHS said that Mr. Martinka had stated there was a legislative requirement to spend sportsmen's money on the problem. Mr. Martinka explained that the existing statute 87-1-215 required FWP to be part of bison management activity. This section would be repealed by SB 312.

REP. ELLIOTT asked if bison or cattle could be cured of brucellosis through neutering or spaying. Dr. Siroky said they

could not be cured, but they would not have the ability to transmit the disease. The disease could still remain in the lymph nodes.

REP. ELLIOTT asked if a neutered game animal was harvested and cleaned, could the disease still be transmitted. Dr. Siroky said it was a slim possibility because the disease was located in the cells. As long as a hunter did not manipulate reproductive tissues, they would be safe.

REP. MARIAN HANSON stated that bison have a long life span and contract the disease as calves. That bison would abort their first pregnancy and would no longer be able to have any calves. She asked Dr. Siroky if that was correct. Dr. Siroky said that it occurred in the cattle population. There was nothing to indicate that it did not occur in the bison population.

REP. HANSON stated that bison could lose a calf and still have a reproductive life. Dr. Siroky said this was typical of brucellosis.

CHAIRMAN DOUG WAGNER asked Dr. Siroky about the cases of brucellosis in people and if they had died. Dr. Siroky explained that no one died, but they remained undiagnosed for about four years. Physicians did not recognize the symptoms of brucellosis. CHAIRMAN WAGNER asked about the symptoms and if it was curable. Dr. Siroky explained that once the disease becomes chronic, it remains throughout a person's life. The symptoms are joint infections, testicle and prostate infections, and cardiovascular problems. He said the Hunchback of Notre Dame had brucellosis. The disease caused the hump in his back. Once the disease takes refuge inside cells, which makes antibiotics ineffective.

CHAIRMAN WAGNER stated that vaccinations would not work in infected animals. Dr. Siroky said he was correct. However, it would prevent an animal from contracting the disease. The disease was not curable. Spaying or neutering animals or slaughtering them was the only way to stop the transmittal.

CHAIRMAN WAGNER commented that the two cases in the past eight years involved people who had contracted the disease from elk. Dr. Siroky said he was correct.

CHAIRMAN WAGNER asked who would spay or neuter animals leaving the park. Dr. Siroky said the procedure would be done by the Department of Livestock or APHIS veterinarians. The service could also be contracted out. CHAIRMAN WAGNER asked about the cost of that service. Dr. Siroky said it would cost \$6 to \$10 per head. If anesthetics were used, it would cost about \$15 to \$20 per head. CHAIRMAN WAGNER asked who would pay for the procedures. Dr. Siroky said the Department of Livestock or APHIS.

CHAIRMAN WAGNER stated that FWP bison management was being reduced resulting in an expense reduction of \$7,350. He asked **SEN. MESAROS** if the Department of Livestock would be paying for part of the management. **SEN. MESAROS** said the responsibilities and budgeting costs depend on a department's activities. If the Department of Livestock becomes responsible for diseased animals leaving the park, then they will be paying a portion of the expenses.

CHAIRMAN WAGNER asked **Mr. Martinka** if he was employed at FWP when bison hunting was still allowed. **Mr. Martinka** said yes.

CHAIRMAN WAGNER asked if bison got past game wardens and sportsmen during the hunt and mingled with the cattle. **Mr. Martinka** said they did not experience problems with commingling. However, there were problems with commingling in Gardiner during 1989. FWP reacted in time. If hunters would have been called into the situation, action could not have been taken as quickly.

CHAIRMAN WAGNER asked if FWP would still be authorized to dispense of the animals if hunters did not show up in a timely fashion. **Mr. Martinka** said that he was correct. **CHAIRMAN WAGNER** said, in view of that, hunting could occur in areas like Decker Flats and Eagle Creek with FWP acting as a backup to prevent bison from getting into the wrong areas. This would allow sportsmen to participate even before bison were determined disease-free. **Mr. Martinka** said yes.

Closing by Sponsor:

SEN. MESAROS thanked the committee for a good hearing. The problem with brucellosis was real and represented a threat to public health. SB 312 attempted to arrive at a consensus between all groups involved. He urged the committee to concur in SB 312.

HEARING ON SB 352

Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, Senate District 13, Big Timber, said the reason both bison bills were presented was because of irresponsible management by the National Park Service (NPS). Even with the population explosion over the past few years, NPS was not taking action. The carrying capacity of the park was about 1,500 to 2,000 bison. Currently, bison number over 4,000 head. There is a large problem with bison in his district. Most bison cross the park border in southern Montana where there are hundreds of ranchers and livestock herds. Bison like low lands around rivers. He was concerned about bison being in areas like Eagle Creek because bison travel many miles at times and could end up in ranches near there. If a blizzard happened and bison were at the border, they would migrate out of the park and end up on ranches. Currently, it is illegal to shoot a bison. A person would face a \$500 to \$1,000 fine and six months in jail. Some of

HOUSE OF REPRESENTATIVES

Fish and Game

ROLL CALL

DATE March 7, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Doug Wagner, Chairman	✓		
Rep. Bill Rehbein, Vice Chairman, Majority	✓		
Rep. Emily Swanson, Vice Chairman, Minority	✓		
Rep. Charles Devaney	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Marian Hanson	✓		
Rep. Hal Harper	~~EXCUSED~~		
Rep. Chase Hibbard	✓		
Rep. Dick Knox	✓		
Rep. Rod Marshall	✓		
Rep. Brad Molnar	✓		
Rep. Bob Pavlovich	✓		
Rep. Bob Raney	✓		
Rep. Bob Ream	✓		
Rep. Paul Sliter	✓		
Rep. Bill Tash	✓		
Rep. Jack Wells	✓		

EXHIBIT 1
DATE MARCH 7, 1995
PAGE 3/2

AN' TRULY WISH THESE TWO POTLICKERS
WOULD LEARN TA' GIT-A-LONG, BEFORE
SOMEBODY REALLY GITS HURT.



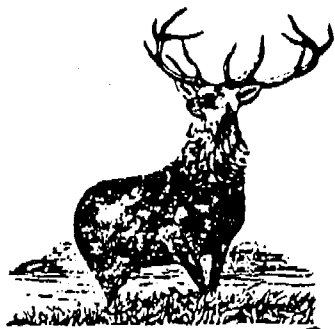


EXHIBIT 3
DATE MARCH 7, 1995
SB 312

Skyline Sportsmen's Association, Inc.

Box 173

Butte, Montana 59703

~~Rep~~ Rep Doug Wyszner, Chairman & House Fa G. Com.

I have investigated the fiscal statement attached to S.B.312. According to Flo Smith at the Governor's Office of Budget and Program Planning, the \$21,000 per year (Assumption #8) is for Fiscal Years 1992, 1993, and 1994. The direct expenditures are for warden's salaries, travel, and subcontracts. It is important to recognize that overhead, administration, and central services costs (which can amount to as much as 100% of the direct expenditures) are not included in the \$21,000 per year figure.

Over this three year period, the DFWP spent approximately \$63,000 in direct money for controlling brucellosis. Over the same period, 364 buffalo were killed by wardens; 271 in FY 1992, 82 in FY 1993, and 11 in FY 1994 (DFWP provided these figures). I calculate that it cost \$173.08 per bison killed (\$63,000 divided by 364 bison). Approximately 350 bison have been killed so far this year by DFWP wardens and approximately 30 more have been killed by Department of Livestock. Using the \$173.08 figure, the cost this year to DFWP alone is approximately \$60,577.

When I total this up, the direct cost of brucellosis control by DFWP over the past four years is approximately \$123,000. There is little doubt that if overhead and administration were included, the total overall cost would be somewhere in the \$200,000 to \$300,000 range.

The fact is that the hunting public has footed this bill and has received absolutely no benefits. Secondly, we have also lost the use of the wardens for chasing poachers and other legitimate work while they are controlling brucellosis. The fiscal statement says that we will save \$7,350 per year of our license fees under S.B.312. To really be fair, the bill should be amended so that the Livestock Department would have to assume the entire burden of the brucellosis control for the next four years at least. Even then we would still be behind because brucellosis control is about 99% of the reason for the bison control.

Good Luck in Helena,

cc: Tony Schoonen
Keith Atcheson
Brian Atcheson

Steve Antonoli
President



EXHIBIT 4
DATE MARCH 7, 1995
SB 312

Safari Club International

P.O. BOX 1754

BILLINGS, MONTANA 59103

To: House Fish and Game Committee

From: Montana Chapter, Safari Club International
Keith Atcheson, Legislative Committee Member

Re: Senate Bill 312

As I read SB312, MDFWP would NOT be authorized to create a hunt for bison originating from Yellowstone because the legislation classifies them as "diseased" and then states only the Department of Livestock can deal with diseased animals. SB312 does say, however, that MDFWP will cooperate with the Department of Livestock, but it seems fairly clear that they can only create hunts for wild bison or buffalo that are disease free. As best I can tell, we have just about as many "wild" disease free bison in Montana as rhinoceros and elephant.

As a practical matter, we feel the legislation could be amended to read something like: Modify page 4, item (4) to read: "The Department may adopt rules with regard to wild buffalo or bison that have not been exposed to or infected with contagious disease, but are in need of management because of potential damage to person or property, and may further adopt rules with regard to diseased, wild bison or buffalo, when the opportunity for such bison to come in contact with livestock does not exist."

Underlined part is the modification.

Our arguments for such an amendment are:

1. For the MDFWP to be forbidden the option of a hunting season involving the Yellowstone bison herd **eliminates a viable cost-effective management option** which should be considered as one rational alternative in any long-term bison management plan. To eliminate wildlife management options by legislation is biologically and financially inappropriate at best and political micro-management at worst.
2. The World Wildlife Fund and many other international conservation agencies recognize hunting as a viable wildlife management tool. For Montana to ignore hunting of a bison herd that is, both geographically and population wise, out of control is contrary to the principles of maintaining the resource. The fact is, the Yellowstone bison exist in huntable populations in severe need of reduction and they DO enter Montana in areas where contact with livestock is non-existent; specifically the Deckard Flat/Eagle Creek area near Gardiner and some areas around West Yellowstone. To specifically exclude hunting as an option speaks only to political fears and ignores realities regarding herd size, habits, and habitat limits.
3. We want to emphasize that we are not requesting a mandate, but we are requesting that the option of a hunt be created to allow MDFWP, the NPS, APHIS, and others involved in bison management where it is feasible.
4. We also feel that MDFWP and DL financial involvement should be in the least a 50/50 split.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

HOUSE FISH & GAME COMMITTEE

DATE March 7, 1995

BILL NUMBER SB312

SPONSOR(S) MESAROS

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
<u>Joe Graham</u>	<u>MT. ASSN. of Auctioneers</u> <u>INT. Dangerous Assn</u>	☒	☐
<u>Keith Atcheson</u>	<u>MT. CHAPTER</u> <u>SAFARI CLUB INTERNATIONAL</u> <u>MT. Dept of Wildlife</u>	☐	☒
<u>CS</u>		☒	☐
<u>Gork Montensen</u>	<u>Bnd. of Lurestock</u>	☒	☐
<u>Bob Madhwa</u>	<u>Dept. of Wildlife Parks</u>	☒	☐
<u>Tony Schaeffer</u>	<u>Skyline & Amusement</u>	☐	☒
<u>McArdle</u>	<u>MT. Audubon</u>	☐	☐
<u>Lorna Frank</u>	<u>MT. Farm Bureau</u>	☒	☐
<u>Stan Frasier</u>	<u>Self</u>	☐	☒
<u>BILL HOLDORF</u>	<u>SKYLINE SPORTSMEN</u>	☐	☒
<u>MT. Stockgrowers Assoc.</u>	<u>MT. Stockgrowers Assoc.</u>	☒	☐
<u>McArdle Torgerson</u>	<u>MT. Cattlewoman's Assn</u>	☒	☐

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN DOUG WAGNER, on March 14, 1995, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Douglas T. Wagner, Chairman (R)
Rep. William Rehbein, Jr., Vice Chairman (Majority) (R)
Rep. Emily Swanson, Vice Chairman (Minority) (D)
Rep. Charles R. Devaney (R)
Rep. Daniel C. Fuchs (R)
Rep. Marian W. Hanson (R)
Rep. Chase Hibbard (R)
Rep. Dick Knox (R)
Rep. Rod Marshall (R)
Rep. Brad Molnar (R)
Rep. Robert J. "Bob" Pavlovich (D)
Rep. Bob Raney (D)
Rep. Robert R. "Bob" Ream (D)
Rep. Paul Sliter (R)
Rep. Bill Tash (R)
Rep. Jack Wells (R)

Members Excused: Rep. Jim Elliott (D)
Rep. Hal Harper (D)

Members Absent: None.

Staff Present: Doug Sternberg, Legislative Council
Mary Riitano, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None.
Executive Action: HB 349 DO PASS AS AMENDED
SB 312 BE CONCURRED IN AS AMENDED
SB 352 BE CONCURRED IN AS AMENDED

CHAIRMAN WAGNER asked Mr. Graham how FWP would provide information about the program. Mr. Graham said some details and questions remained regarding how everything will work. The best way to distribute information will be through organized groups. FWP could help people in getting the right applications, once they heard about the program. They could also help people find cost share programs. Word of mouth will be the best way to pass along information about the program.

CHAIRMAN WAGNER asked Mr. Graham if the current river restoration program would remain intact or would the two programs be rolled into one. Mr. Graham explained that HB 349 would begin the process of combining the programs. There would be a larger program with a new format.

CHAIRMAN WAGNER commented that the current river restoration project was basically inadequate. The new program has potential.

REP. RANEY said the current river restoration language still existed; there just would not be any money to fund the program. That language was being left intact in the event the new program was unsuccessful.

REP. SWANSON asked if it was worth having a review committee to determine eligibility since FWP did the work of prioritizing and deciding on funding. REP. KNOX remarked that the success of the program was based on the acceptance by the agricultural community. The review committee would help people feel comfortable with the process and establish credibility. Perhaps, after the program operates for awhile, the committee would not be needed. REP. SWANSON said the issue could be reviewed in a few years.

Motion/Vote: REP. HIBBARD MOVED THE PREVIOUS QUESTION. Motion carried unanimously.

Vote: REP. RANEY'S AMENDMENTS. Motion carried unanimously.

Motion/Vote: REP. RANEY MOVED THAT HB 349 DO PASS AS AMENDED. Motion carried 13 to 4 with REPS. WAGNER, REHBEIN, HANSON, and SLITER voting no. REP. JIM ELLIOTT was absent for the vote.

EXECUTIVE ACTION ON SB 312

Motion: REP. SLITER MOVED THAT SB 312 BE CONCURRED IN.

Discussion:

REP. REAM distributed a copy of proposed amendments. The amendments provided clarification. The first two amendments made minor changes in the title. Amendment three made the language consistent that both agencies would work under a plan approved by the governor. Amendment four required that the Department of

Livestock also cooperate with FWP in regulating publicly-owned wild buffalo.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: Lost 5 seconds during REP. REAM's comments.}

Amendment five would allow FWP to adopt rules to implement public hunting if the approved plan included that option. **EXHIBIT 3**

REP. REHBEIN asked **REP. REAM** if he had consulted with **SEN. KEN MESAROS**, the sponsor of the bill, about the proposed amendments. **REP. REAM** said he had spoken with him and it did not appear that he approved of the amendments. **REP. HIBBARD** stated he had also spoken with **SEN. MESAROS** and agreed that the Senator was not enamored with the amendments. However, **SEN. MESAROS** offered to return to the committee to discuss the proposed amendments.

REP. REHBEIN asked **Dr. George Sheets**, Department of Livestock, about their position on the amendments. **Dr. Sheets** said the amendments would place the department "back to square one" before the legislation was proposed. They removed primacy from the Department of Livestock.

REP. REAM maintained that the amendments did not remove primacy. Section 1 clearly gave primacy to the Department of Livestock. The amendments only state that the Department of Livestock must also cooperate with FWP.

REP. TASH spoke in opposition to amendment five. The committee should support the governor in the pending lawsuit which would force responsibility on the U.S. Wildlife Service. He did not see a reason to add language that may conflict with the pending litigation.

Motion: **REP. SLITER** MOVED TO SEGREGATE AMENDMENT FIVE.

Discussion:

REP. REAM asked **Dr. Sheets** to explain how the amendments removed primacy from the Department of Livestock. **Dr. Sheets** explained that using the word "assist" made their department have primacy. However, using the word "cooperate" made the two departments equal and therefore neither would have primacy.

REP. REAM asked **Dr. Sheets** if he was referring to amendment four. **Dr. Sheets** said yes. It was a small point, but they considered it serious.

REP. SWANSON noted that the bill came to the House Fish and Game Committee with the word "assist" amended out. **Dr. Sheets** understood that "assist" was amended out. **REP. SWANSON** explained that amendments one through four were segregated under the contention that amendment five dealt with a different topic. According to the Department of Livestock, amendments one through

four put them back to "square one." The reason that occurred was because the word "cooperate" was used rather than the word "assist." SB 312 was presented to the committee with the word "assist" amended out. She asked **SEN. MESAROS** for clarification. **SEN. MESAROS** stated that amendment four was already addressed because both sections were interrelated.

REP. SWANSON stated that she did not believe it changed the bill's intent. She pointed out that the bill, as it was received from the Senate Fish and Game Committee, already had the word "assist" amended out. It was replaced with "cooperate with." Amendment four attempted to make the language consistent. **REP. SWANSON** asked **SEN. MESAROS** to explain his problem with the amendment. **SEN. MESAROS** said that the amendment was already addressed through sections in the bill. He did not believe the amendments were necessary. He agreed that amendment five addressed a different topic.

REP. REAM stated that he did not have "strong feelings" about amendment four. He was just attempting to create consistency in the language. **CHAIRMAN WAGNER** clarified that one of the departments needed primacy. It was not being given with the language used in amendment four. **REP. REAM** explained that he was trying to ensure that the departments would work together. Section 2 already stated that FWP must cooperate with the Department of Livestock in managing publicly-owned wild bison.

REP. TASH asked **John Bloomquist, Montana Stockgrowers**, if the amendments would be detrimental. **Mr. Bloomquist** stated that the amendments would return the Department of Livestock to its current state. The Animal and Plant Health Inspection Service (APHIS) would still be threatening to pull Montana's certification. Six states require brucellosis testing, and potentially it could soon increase to nine states. The purpose of SB 312 was to provide clear authority over handling the brucellosis problem within the state. The bill also clarified that FWP would be cooperating with the Department of Livestock in managing bison under a plan approved by the governor, applied pressure to the National Park Service (NPS), and addressed the issue of public hunting of disease-free bison.

CHAIRMAN WAGNER asked **Mr. Bloomquist** how the Department of Livestock planned to eradicate the disease and meet the demands of APHIS. **Mr. Bloomquist** stated that in his discussions with the state veterinarian, the proposed plan in SB 312 would please APHIS. The role of the state veterinarian would be to convince veterinarians in other states that Montana's plan was two-fold. Montana would control bison that come out of Yellowstone National Park and continue with the governor's lawsuit.

CHAIRMAN WAGNER asked **Mr. Bloomquist** what would be done differently than what is currently being done and asked if FWP was currently eradicating bison at the border. **Mr. Bloomquist** said buffalo were being eliminated as they cross park borders for

overpopulation reasons. As long as bison enter the state, the certification is threatened. It does not matter if the land is privately-owned, stated-owned, or owned by the federal government.

REP. REAM stated that Section 1 dealt with primacy. If the Department of Livestock felt strongly against amendment four, he would remove it. He stated, however, that there should be some mechanism that would require the Department of Livestock to at least consult with FWP. REP. REAM did not believe the amendments would remove primacy. He asked Mr. Bloomquist if they would feel better with "consult with" rather than "cooperate with." Mr. Bloomquist stated that they felt like they were "between a rock and a hard place" with the two federal agencies. The state agencies do not always see "eye to eye." SEN. MESAROS had gone to both state departments and made the bill acceptable to both departments. Mr. Bloomquist expressed much concern over primacy being removed from the Department of Livestock.

REP. REAM commented that if the two state agencies cannot cooperate, there should definitely be a plan approved by the governor.

REP. TASH expressed opposition to amendments one through four. Neither state agency expressed contentions or concerns during the hearing. The issue involved more than just hunting bison. It involved trying to preserve Montana's livestock industry. Approximately \$1 billion of business was generated by agriculture each year with about \$30 million being from livestock seed stock. Bison threaten the state's ability to transport out-of-state with a brucellosis-free status. The purpose of the bill as it was drafted should remain intact.

REP. REAM remarked that he carried the bill that ended bison hunting. He supported the livestock industry in opposing REP. RED MENAHAN'S bison hunting bill during this session. He viewed the proposed amendments as a compromise. He stated that he would not vote for the bill without the amendments. Public hunting of bison was an emotional issue. He proposed the amendments in good faith to allow a small opening for FWP to have authority to implement a hunt if a plan is approved by all concerned parties.

REP. HIBBARD agreed with REP. REAM. He acknowledged the threat that the bison posed to the livestock industry in Montana. It was inevitable that there would be a public bison hunt in the future. He stated that he did not feel threatened by amendments one through four. SB 312 was clear that the Department of Livestock had primacy.

REP. TASH said that good points were made. If public hunting took place, it should occur within the park and not in the state of Montana. Bison are overpopulated and have disease problems. Both departments appeared as proponents during the hearing on SB

312 and indicated they were willing to work together. He expressed opposition to the amendments.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: Lost 5 seconds.}

REP. REHBEIN spoke against the amendments. However, if the language in amendment four was changed to read "the Department of Fish, Wildlife and Parks will cooperate with the Department of Livestock," he would feel more comfortable supporting the amendments. The amendments confuse the issue of who has primacy.

Vote: REP. REAM'S AMENDMENTS ONE THROUGH FOUR. Motion failed 11 to 7 on a roll call vote with REPS. WAGNER, SWANSON, ELLIOTT, HARPER, HIBBARD, RANEY, and REAM voting yes.

Discussion:

REP. REAM explained that amendment five would allow FWP to adopt rules to implement public hunting if the approved plan included that option.

REP. MOLNAR asked why the language included "the department may adopt rules" rather than "the department shall adopt rules," if the plan approved by the governor included hunting. REP. REAM said that FWP would still need to go through the rulemaking process.

REP. TASH expressed opposition to the amendment. The language was already clear and specific as it was originally drafted.

REP. MOLNAR stated that the proposed language indicated FWP "may" adopt public hunting rules. Since the Department of Livestock has primacy, he asked what would happen if they did not want to have a public hunt. REP. REAM assumed that the Department of Livestock would participate in the process if the plan was approved by the governor.

REP. MOLNAR asked if the Department of Livestock has primacy, could they stand in the way of a public hunt. He also asked if the Department of Livestock had the legal authority to organize a public hunt. REP. REAM clarified that if the plan allowed hunting, FWP would have rulemaking authority to establish the hunt. REP. MOLNAR asked if this would give primacy to FWP. REP. REAM said FWP would only have primacy for public hunting. REP. REHBEIN spoke in opposition to the amendment. Including hunting mixed up the bill's intent. Hunting should be dealt with under a different bill.

Vote: REP. REAM'S AMENDMENT FIVE. Motion failed 12 to 6 on a roll call vote with REPS. WAGNER, ELLIOTT, HARPER, MOLNAR, RANEY, and REAM voting yes.

Motion: REP. REAM MOVED THAT AMENDMENT THREE DO PASS.

Discussion:

REP. REAM said that amendment three did not remove primacy. It made the Department of Livestock subject to a plan approved by the governor just as FWP was subject to a plan approved by the governor.

Vote: REP. REAM'S AMENDMENT THREE. Motion carried 12 to 6 with REPS. REHBEIN, TASH, PAVLOVICH, HANSON, FUCHS, and SLITER voting no.

Motion: REP. DEVANEY MOVED THAT SB 312 BE CONCURRED IN AS AMENDED.

Discussion:

CHAIRMAN WAGNER asked Bob Martinka, FWP, if the department had any proposals about public bison hunting in SB 312. Mr. Martinka said no consideration was given to proposing amendments.

Motion: CHAIRMAN WAGNER MOVED TO AMEND SB 312.

Discussion:

CHAIRMAN WAGNER asked Mr. Sternberg to explain the proposed amendments. Mr. Sternberg explained the amendments dictated that the Department of Livestock have authority for the control and management of bison on private lands for disease control and that FWP have management and primary authority for the care of bison on public lands for population control. The Department of Livestock would deal with infected bison on private land while FWP would manage the bison on public land for population control. Another subsection would be added allowing FWP to evaluate and identify potential locations for hunting on public lands north and west of the park for free-ranging bison that have migrated from the park. Management plans could be developed to maintain that herd and provide for public control actions through seasons approved by the Fish and Game Commission. The bison license would be set up similar to and commensurate with fees comparable to moose, mountain goat, and mountain sheep. Corresponding changes would be made in the title and in the Statement of Intent.

CHAIRMAN WAGNER stated that FWP and the park service could continue as backups and not allow any bison past the boundaries of public land. If Montana sportsmen could not harvest the bison, FWP would take care of them. As a result, the threat of livestock being exposed to disease would be eliminated. He believed the pressure would not be removed from the park service to control the bison for overpopulation and disease. The governor's lawsuit would not be affected. Instead of FWP killing bison somewhere outside of the park boundaries, Montana citizens would be allowed to be a part of the management plan.

REP. TASH expressed strong opposition to the amendments. The Department of Livestock personnel have pointed out that hunting needed to be controlled. They need to keep bison close to the park. In a public hunt, bison would be free-roaming and it would be difficult to determine where bison may end up being harvested. The purpose of SB 312 was to allow the governor to carry out a plan focusing on the primacy of the Department of Livestock. The plan that the governor is working on involved lobbying the President of the United States to take action. Hunting would take pressure off of the federal government. Bison would be scattered too far from the park and would pose an even greater threat regarding the spread of disease.

REP. HIBBARD asked **CHAIRMAN WAGNER** if his proposed amendments would not jeopardize Montana's status with APHIS. **CHAIRMAN WAGNER** said the amendments would not jeopardize the status any more than it is currently. The amendments would help take care of bison migrating from the park for the purposes of population control. He believed bison that can be caught, tested, and determined to be disease-free were under the jurisdiction of the Department of Livestock.

REP. HIBBARD understood that **CHAIRMAN WAGNER** believed if bison got onto public land, the public should be allowed to hunt bison on publicly-owned land; it would not jeopardize Montana's brucellosis-free status, and bison would be controlled as well as they are currently. **CHAIRMAN WAGNER** stated that they could be controlled more effectively. He did not believe it would jeopardize the brucellosis-free status anymore than it is currently.

REP. HIBBARD stated this is an important issue to the livestock industry in Montana. He felt the proposed amendments would seriously jeopardize Montana's brucellosis-free status, undermine the governor's efforts of negotiation, and remove the pressure from NPS. He expressed opposition to the amendments.

REP. KNOX stated the amendments would undermine the governor's effort to address the situation effectively. The only way to gain control of the situation is by controlling the problem within park boundaries. Anything that is done to alleviate the pressure on NPS to achieve that control is counterproductive and would be damaging to the livestock industry. The splitting of jurisdictional authority as proposed in the amendments is also counterproductive. He stated that he could not support the amendments.

REP. RANEY asked **Mr. Martinka** about his opinion regarding allowing citizens to help control bison at the border of the park. **Mr. Martinka** stated that it was a disease driven issue. Above all else, the brucellosis-free status must be maintained.

REP. RANEY asked **Mr. Martinka** if he knew if provisions for hunting were being proposed in the Interim Plan. **Mr. Martinka**

said it was one of the options being examined. However, in order for hunting to be a viable option, APHIS and surrounding states would have to change their rules and recognize that Montana has control of bison leaving the park.

REP. RANEY did not understand why citizens could not participate.

{Tape: 3; Side: A; Approx. Counter: 000; Comments: Lost 5 seconds in the middle of REP. RANEY's question.}

If it was done around Eagle Creek on public land, citizens could help FWP control the bison. He asked **Mr. Martinka** to respond. **Mr. Martinka** explained that FWP tried to respond within 24 hours when cattle were threatened. The Department of Livestock provided this guideline. It would be very difficult to involve the public in this process under current regulations.

REP. MOLNAR understood the amendments would designate a split primacy. He asked **CHAIRMAN WAGNER** about the advantages of split primacy. **CHAIRMAN WAGNER** said that the advantage would be giving the Department of Livestock primacy in disease control and allowing hunters to harvest bison under the jurisdiction of FWP. Currently, there are no provisions in the Department of Livestock to hunt buffalo.

REP. HIBBARD stated that agricultural people feel that this is an extremely important and complex issue. The Department of Livestock needs to gain complete control of the situation and attempt to keep the thrust of the management within the park.

REP. REAM's amendments were a positive measure in potentially providing a public hunt when that situation becomes feasible.

REP. RANEY said the people in urban Montana do not understand the issue as thoroughly as ranchers and agricultural people. He was concerned about mandates that may be proposed during the next legislature. Some people do not understand why they cannot participate. The people he represents want to participate in harvesting the bison.

REP. TASH remarked that he favored bison control, but it needed to be accomplished inside of the park. The disease factor did not only involve other animals, but people as well. There is a risk factor for hunters. Legislators should be educators. They should answer their constituent concerns to help them understand the threats that Montana is facing.

REP. REAM asked **Dr. Sheets** how the brucella bacteria was carried in bull bison. **Dr. Sheets** said it was usually carried in the testicles. REP. REAM asked if bull bison could infect cattle. **Dr. Sheets** said that it was originally believed that bull bison play a very small role in the transmittal of brucellosis. New evidence suggests that they are a bigger problem than what was originally believed.

REP. REAM asked about the mode of transmittal. Dr. Sheets said the mode of transmission was breeding. REP. REAM said that bull bison do not breed with cattle. The disease is spread to cattle through the female bison. Dr. Sheets said he was correct.

REP. REAM asked when the breeding season was for bison. Dr. Sheets said the breeding season was usually in July and August. REP. REAM asked where the bison from the northern Yellowstone herd were located in July and August. Dr. Sheets said they were scattered. REP. REAM commented that the bison were located in the park during the summer and that bull bison do not contaminate cattle.

REP. WELLS agreed with REP. RANEY's points. However, most people recognize the reasons why they cannot be involved. The concentration of the bill was on the disease issue. It should not be turned into a hunting bill. The issues would become more complex if hunting was added and the primacy jurisdictions split.

REP. REHBEIN believed that there was a problem with "who's to say what a diseased animal is." He asked if every animal would be assumed to have the disease and be shot by the Department of Livestock and if every animal that was on public land was acceptable to hunt. If the amendment passed, there may be a problem getting hunters to the location quickly enough to eliminate animals before they mingle with cattle. His desire was to have hunters participate with FWP. This may require everyone who bought a bison tag to be on 24 hour notice. He expressed objection to the amendments.

CHAIRMAN WAGNER stated that he had no desire to shoot a bison himself, but the people he represented wanted to be able to hunt bison again. As far as he was concerned, Montana does not have a brucellosis-free certification at this time. The public needs to be educated when handling elk or bison to wear gloves and avoid touching certain parts of the animals after they are harvested. In his amendments, FWP would be the backup behind hunters while they were harvesting bison at the border.

Motion/Vote: REP. SLITER MOVED THE PREVIOUS QUESTION. Motion carried unanimously.

Vote: CHAIRMAN WAGNER'S AMENDMENTS. Motion failed 14 to 4 with REPS. WAGNER, FUCHS, MOLNAR, and REAM voting yes.

Motion/Vote: REP. DEVANEY MOVED THAT SB 312 BE CONCURRED IN AS AMENDED. Motion carried 13 to 5 with REPS. WAGNER, KNOX, MOLNAR, PAVLOVICH, and REAM voting no.

HOUSE OF REPRESENTATIVES

Fish and Game

ROLL CALL

DATE March 14, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Doug Wagner, Chairman	✓		
Rep. Bill Rehbein, Vice Chairman, Majority	✓		
Rep. Emily Swanson, Vice Chairman, Minority	✓		
Rep. Charles Devaney	✓		
Rep. Jim Elliott		✓	
Rep. Daniel Fuchs	✓		
Rep. Marian Hanson	✓		
Rep. Hal Harper		✓	
Rep. Chase Hibbard	✓		
Rep. Dick Knox	✓		
Rep. Rod Marshall	✓		
Rep. Brad Molnar	✓		
Rep. Bob Pavlovich	✓		
Rep. Bob Raney	✓		
Rep. Bob Ream	✓		
Rep. Paul Sliter	✓		
Rep. Bill Tash	✓		
Rep. Jack Wells	✓		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Fish and Game Committee

DATE MARCH 14, 1995 BILL NO. ^{SB}312 NUMBER 1

MOTION: DO PASS AMENDMENTS 1-4 (REAM)

NAME	AYE	NO
Rep. Doug Wagner, Chairman	✓	
Rep. Bill Rehbein, Vice Chairman, Majority		✓
Rep. Emily Swanson, Vice Chairman, Minority	✓	
Rep. Charles Devaney		✓
Rep. Jim Elliott	✓	
Rep. Daniel Fuchs		✓
Rep. Marian Hanson		✓
Rep. Hal Harper	✓	
Rep. Chase Hibbard	✓	
Rep. Dick Knox		✓
Rep. Rod Marshall		✓
Rep. Brad Molnar		✓
Rep. Bob Pavlovich		✓
Rep. Bob Raney	✓	
Rep. Bob Ream	✓	
Rep. Paul Sliter		✓
Rep. Bill Tash		✓
Rep. Jack Wells		✓

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Fish and Game Committee

DATE MARCH 14, 1995 BILL NO. SB 312 NUMBER 2

MOTION: #5 REAM AMENDMENT

NAME	AYE	NO
Rep. Doug Wagner, Chairman	✓	
Rep. Bill Rehbein, Vice Chairman, Majority		✓
Rep. Emily Swanson, Vice Chairman, Minority		✓
Rep. Charles Devaney		✓
Rep. Jim Elliott	✓	
Rep. Daniel Fuchs		✓
Rep. Marian Hanson		✓
Rep. Hal Harper	✓	
Rep. Chase Hibbard		✓
Rep. Dick Knox		✓
Rep. Rod Marshall		✓
Rep. Brad Molnar	✓	
Rep. Bob Pavlovich		✓
Rep. Bob Raney	✓	
Rep. Bob Ream	✓	
Rep. Paul Sliter		✓
Rep. Bill Tash		✓
Rep. Jack Wells		✓

✓ 2



~~SB-349~~

~~Yes on Airport~~

~~Yes on B...~~

SB-312 - YES PRO

No on ...

+ No on ...

SB-352 - PRACTICE

Yes on AIRPORTS

MARCH 7th F.W.D.

Yes on B...

Park...

3/14/95

SB 352

I vote yes on the bill

I vote with Bill Rehbein on
any & all amendments.

Marion Hanson

SB 312

I vote yes on the bill

I vote No on the Haggen amendment
and with Rehbein on all other amendments.

Marion Hanson

TSB312.HP

Senate Bill No. 312
March 7, 1995
Testimony presented by Bob Martinka
Montana Fish, Wildlife & Parks
before the House Fish and Game Committee

Conflicting policies of two federal agencies, USDA Animal and Plant Health Inspection Service (APHIS) and USDI National Park Service (NPS), have created an unacceptable situation for the State of Montana. In defiance of APHIS' National Brucellosis Program and with disregard for the consequences to Montana's livestock industry, NPS refuses to control the numbers and distribution of the nation's bison herd in Yellowstone Park. In defiance of NPS' mission and with disregard for the special values of Yellowstone Park and the nation's bison herd, APHIS will not provide the regulatory flexibility for the Park to address the problem.

Bison routinely migrate from Yellowstone Park into Montana. When they do, they damage private property and may associate with livestock thereby threatening the direct transmission of brucellosis. Moreover, the mere presence of these animals in the state is a threat to Montana's certification under the National Brucellosis Program. The reduction in Montana's class-free certification would be equivalent to market sanctions against Montana cattle, at significant cost to the industry.

An unfortunate consequence of Montana's dilemma with bison is that the lack of cooperation between APHIS and NPS may, at times, compromise the working relationship between the departments of Livestock and Fish, Wildlife & Parks. SB 312 clarifies the responsibilities of both agencies, as currently defined by state regulations and the interim bison management plan. In addition, this legislation would designate the Department of Livestock as the lead agency for actions to remove bison that originate from Yellowstone National Park, a responsibility that currently resides with Fish, Wildlife & Parks per the interim management plan.

We discussed with the sponsor several amendments to SB 312 and appreciate his incorporating those in this bill. With the current amendments, the Department supports this legislation.

**Montana Department
of
Fish, Wildlife & Parks**

SENATE FISH AND GAME

EXHIBIT NO. 6

DATE 2/16/95

BILL NO. 312



P. O. Box 200701
Helena, MT 59620-0701
(406) 444-3186
FAX: 406-444-4952
Ref: PG0097.95
February 17, 1995

Senator Kenneth Mesaros
Capitol Station
Helena, MT 59620

Dear Senator Mesaros:

I appreciate your interest in working with us on amendments to SB 312. I believe these amendments help clarify the intent of the bill and clarify the roles and responsibilities of each agency.

Since our role in protecting private property generally occurs simultaneously with disease control actions, we have worked cooperatively with Livestock and the National Park Service and will continue to do so under this bill. Clarification of roles should address some of the criticisms about our agency spending too much money or effort on disease control actions.

I understand the intent of SB 312 is to more clearly spell out DoL's responsibility for decisions to remove bison that migrate from Yellowstone National Park when they jeopardize Montana's brucellosis-free status. This bill is intended to provide the State Veterinarian more credibility to communicate to other states and APHIS his ability to protect Montana cattle.

Retaining language currently in law that directs the state's efforts toward a long-term plan and support for the lawsuit is important. Clearly we must continue to apply pressure on the two federal agencies while maintaining consistent policy and actions from the State of Montana.

We also support retaining the moratorium on hunting of diseased bison. We cannot control this problem from our side of the border. Anything that shifts attention away from the Federal agencies responsibilities to address these problems, such as a public hunt, will undermine the progress gained in the Governor's lawsuit. We discussed with the House Fish and Game Committee having FWP evaluate developing an experimental public bison herd in the state with animals certified by the State Vet. These would be bison captured from Yellowstone that would otherwise be hauled to slaughter.



HOUSE STANDING COMMITTEE REPORT

March 15, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that Senate Bill 312 (third reading copy -- blue) be concurred in as amended.

Signed: Douglas T. Wagner
Doug Wagner, Chair

Carried by: Rep. Anderson

And, that such amendments read:

1. Page 2, line 6.

Following: "~~take~~"

Insert: ", under a plan approved by the governor,"

-END-

Committee Vote:
Yes 13, No 5.

601231SC.Hbk

Amendments to Senate Bill No. 312
Third Reading Copy

Requested by Rep. Ream
For the Committee on Fish & Game

Prepared by Doug Sternberg
March 8, 1995

1. Title, line 7.
Following: "PARKS"
Strike: "TO"
Insert: "AND"
Following: "~~ASSIST~~"
Strike: "COOPERATE WITH"

2. Title, line 8.
Following: "LIVESTOCK"
Insert: "TO COOPERATE"

3. Page 2, line 6.
Following: "~~take~~"
Insert: ", under a plan approved by the governor,"

4. Page 2, line 14.
Following: "euthanasia."
Insert: "(c) The department shall cooperate with the department of fish, wildlife, and parks in regulating publicly owned wild buffalo or bison that pose a threat to persons or livestock in Montana through the transmission of contagious disease."

5. Page 3, line 22.
Following: "GOVERNOR."
Insert: "If the approved plan includes an option for public hunting of wild buffalo or bison on public lands to help control populations, the department may adopt rules to implement that public hunting option."